

Applicant : Murakami et al.  
Serial No. : 09/349,423  
Filed : July 7, 1999  
Page : 10 of 14

Attorney's Docket No.: 16821-005001 / 2000-089-1

### REMARKS

Applicant thanks the examiner for the interview on May 17, 2005. Reconsideration and allowance of the above-referenced application are respectfully requested in view of the interview, amendments, and remarks. The claims are directed to patentable subject matter and the claims are not obvious in view of the prior art.

#### Interview Summary

A telephone interview was held on May 17, 2005, during which the rejections under 35 U.S.C. sections 101 and 103 were discussed. Cited references, including Tagami et al. (US 5,812,070, hereinafter "Tagami") and "Station Car EV Could Meet State Mandates" (Environmental Information Network, Inc. (Electric Vehicle Energy Network Online Today Aug. 31, 1995); hereinafter "EIN"), were discussed with reference to the rejection under 35 U.S.C. section 103. Details of the interview are discussed throughout the remarks.

#### Claim Rejections under 35 U.S.C. § 101

Claims 1-8 and 35 are rejected under 35 U.S.C. section 101 as allegedly being directed to non-statutory subject matter. This rejection is traversed.

In response to requests from the examiner and to expedite prosecution, the claims have been amended to include the word "computer" or "one or more computers" in various places to indicate a computer implementation. Based on the examiner's remarks during the interview, these amendments would overcome the rejection, and, thus, the rejection should be withdrawn.

#### Claim Rejections under 35 U.S.C. 103(a)

Claims 1-7, 9-24, and 26-35 are rejected under 35 U.S.C. section 103(a) as allegedly being unpatentable over Tagami in view of EIN. This rejection is traversed.

As stated in the previous response to an office action and discussed during the interview, the claims are not obvious over Tagami in view of EIN, as (A) features of the claims have not been disclosed in cited references and (B) Tagami teaches away from the claimed subject matter.

Applicant : Murakami et al.  
Serial No. : 09/349,423  
Filed : July 7, 1999  
Page : 11 of 14

Attorney's Docket No.: 16821-005001 / 2000-089-1

(A) Features of the Claims not Disclosed in Cited References

The claimed subject matter is directed towards a vehicle sharing system and method that involve reserving vehicles with the highest state of charge ("SOC"). Travel information concerning a trip may be received. The information is usable to determine the SOC necessary for that trip. A group of vehicles with a sufficient SOC to meet the trip is selected. A determination is made as to whether a vehicle having a second or N highest SOC is in the selected group. From that determination, the second or N highest SOC vehicle in the group may be chosen.

The last office action alleged that the claims did not include features due to their conditional "if" statements (see p.5, second full paragraph). Without conceding the propriety of the rejection and solely to expedite prosecution, Applicant notes that the claims have been amended to include a computer determining or a computer programmed to determine. For example, claim 1 recites, "a computer determining whether a vehicle having a second highest level of charge is in the selected group." These amendments were made in accordance with the examiner's remarks made during the interview on May 17, 2005. As discussed during the interview, amending the claims to include a computer determining or programmed to determine will obviate the current rejections.

Neither Tagami nor E1N teaches or discloses determining whether a vehicle having a second or N highest level of charge is in a selected group, and possibly allocating a vehicle having a second or N highest SOC. Thus, because these features are in the independent claims, as amended (see independent claims 1, 2, 9, 19, 35), and the cited references do not disclose these features, the claimed subject matter is not obvious, as the cited references do not disclose all the limitations of the independent claims.

(B) Cited References Teach Away

In addition, the claimed subject matter is not obvious because Tagami teaches away from features of the claimed subject matter, as the vehicle allocation scheme of Tagami is focused on allocating vehicles according to past usage history, rather than allocating the second highest or N highest SOC vehicle (see independent claims 1, 2, 9, 19, 35).

The office action mailed March 28, 2001 acknowledges that allocating a vehicle having the second highest or N highest SOC in the group is not a feature disclosed in Tagami (office

Applicant : Murakami et al.  
Serial No. : 09/349,423  
Filed : July 7, 1999  
Page : 12 of 14

Attorney's Docket No.: 16821-005001 / 2000-089-1

action mailed 3/28/01, pages 3, 13-14; ). That office action further states that it would have been obvious, "to select a vehicle having the second highest [or N highest] charge since the vehicle with the second highest charge still meets the inventive concept of Tagami for selecting a vehicle with a minimum amount of charge, because it would leave the vehicle with the most charge still available which therefore increases the operating efficiency" (emphasis added) (office action mailed 3/28/01, page 3). However, this conclusion is not warranted.

In contrast to vehicles in Tagami, vehicles in the claimed subject matter are allocated, such that, out of the group of vehicles that are sufficiently charged, the vehicles allocated tend to be well charged. In other words, a vehicle that is the second highest or N highest charged vehicle in the group of sufficiently charged vehicles will tend to be more charged than vehicles with a mere sufficient amount of charge necessary for a trip. Vehicles tend to be well charged in order to increase the battery charging efficiency of the fleet of vehicles, as battery charging efficiency tends to be increased if well-charged vehicles are allocated prior to vehicles with a mere sufficient SOC for a trip – this phenomena is due to the characteristics of battery charging that were researched and studied by the Applicant, and not even considered in Tagami (see present application, page 13, lines 4-17).

Tagami teaches away from this method of allocating vehicles. In Tagami, vehicles are allocated such that a user with a short past average traveled distance receives a vehicle with a low amount of charge and a user with a long past average traveled distance receives a vehicle with a high amount of charge (Tagami col. 4, line 63 through col. 5, line 16). The aim of increasing operating efficiency in Tagami appears to be focused on allocating vehicles relative to past usage history. This teaches away from allocating vehicles with the second highest or N highest SOC because vehicles with a second or N highest SOC would not tend to be charged relative to the past usage history. Rather, the vehicles allocated would tend to be well charged; unlike Tagami, well-charged vehicles tend to be allocated before vehicles that are merely sufficient. Thus, Tagami teaches away from the limitation of allocating a second highest or N highest SOC vehicle.

Applicant : Murakami et al.  
Serial No. : 09/349,423  
Filed : July 7, 1999  
Page : 13 of 14

Attorney's Docket No.: 16821-005001 / 2000-089-1

For all of these reasons, claims 1, 2, 9, 19, and 35 should be in condition for allowance. Additionally, claims 3-7, 10-18, 20-24, and 26-34 are dependent upon independent claims 2, 9, and 19, thus these claims should also be allowed.

Claims 8 and 25 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Tagami in view of Klein et al. (US 5,726,885, hereinafter "Klein"). This rejection is traversed.

Because claims 8 and 25 depend on independent claims 2 and 19, respectively, and neither Tagami nor Klein teach or suggest features of the independent claims, discussed above, these claims should also be allowed.

#### Conclusion

In view of the above amendments and remarks, therefore, all of the claims should be in condition for allowance. A formal notice to that effect is respectfully requested.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant : Murakami et al.  
Serial No. : 09/349,423  
Filed : July 7, 1999  
Page : 14 of 14

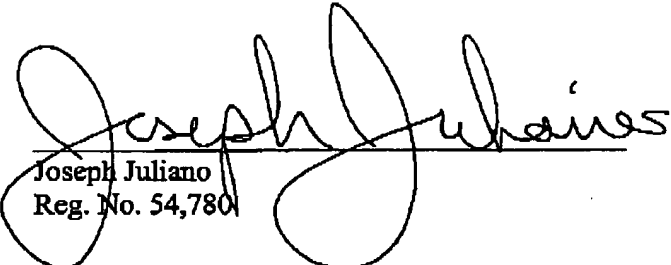
Attorney's Docket No.: 16821-005001 / 2000-089-1

Please apply \$120.00 for the one month extension of time fee and any other charges or credits any necessary charges to Deposit Account No. 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

8/1/05

  
\_\_\_\_\_  
Joseph Juliano  
Reg. No. 54,780

PTO Customer No. 20985  
Fish & Richardson P.C.  
12390 El Camino Real  
San Diego, California 92130  
Telephone: (858) 678-5070  
Facsimile: (858) 678-5099

10502245.doc